

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(BALTIMORE DIVISION)**

**Changzhou Kaidi Electrical Co., Ltd.
Wenxing Industrial Area
No. 4 Jiangcun East Road
Henglin Town, Changzhou 213101**

and

**Kaidi LLC
2285 S. Michigan Road
Eaton Rapids, MI 48827**

Plaintiffs,

v.

**Okin America, Inc.
7330 Executive Way
Frederick, Maryland 21704**

and

**Dewert Okin GmbH
Weststrasse 1
32278 Kirchlengern, Germany**

Defendants.

Case No. 1:13-cv-1798

COMPLAINT

Plaintiffs, Changzhou Kaidi Electrical Co., Ltd. and Kaidi LLC (collectively “Plaintiffs”), for their Complaint for Declaratory Judgment against Defendants, Okin America, Inc. and Dewert Okin GmbH (“Okin” or (“Defendants”), allege as follows:

NATURE OF THE ACTION

1. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the patent laws of the United States of America, 35 U.S.C. § 101, *et seq.*

THE PARTIES

2. Plaintiff Kaidi Electrical Co., Ltd. (“Kaidi”) is a Chinese corporation having a principal place of business at Wenxing Industrial Area, No. 4 Jiangcun East Road, Henglin Town, Changzhou 213101 China. As part of its business, Kaidi is involved in the research, development and manufacturing of linear actuators, including the KDPT005 Actuator.

3. Plaintiff Kaidi LLC (“Kaidi LLC”) is a Michigan limited liability company having an address at 2285 S. Michigan Road, Eaton Rapids, MI 48827. As part of its business, Kaidi LLC is involved in the importation into the United States of linear actuators, including the KDPT005 Actuator.

4. On information and belief, Defendant Okin America, Inc. (“Okin America”) is a Maryland corporation having a principal place of business at 7330 Executive Way, Frederick, Maryland 21704. On information and belief, Okin America is engaged in the marketing and sale of linear actuators, including the Okin Betadrive, in Maryland and throughout the United States.

5. On information and belief, Defendant Dewert Okin GmbH (“Dewert Okin”) is a German corporation having a principal place of business at Weststrasse 1, 32278 Kirchlengern, Germany. On information and belief, Dewert Okin is engaged in the manufacture, marketing and sale of linear actuators, including the Okin Betadrive, which are marketed and sold in Maryland and throughout the United States.

JURISDICTION AND VENUE

6. This is a civil action regarding allegations of patent infringement, patent invalidity and patent unenforceability arising under the patent laws of the United States, Title 35 of the United States Code, in which Plaintiffs Kaidi Electrical and Kaidi LLC seek declaratory relief

under the Declaratory Judgment Act. Thus, this Court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 1331, 1338, 2201 and 2202.

7. An actual controversy exists between Plaintiffs on the one hand and Defendants on the other concerning the KDPT005 Actuator.

8. Plaintiffs contend that they have the right to make, use, have made, sell, offer for sale and import the KDPT005 Actuator without license from Defendants.

9. This Court has personal jurisdiction over Okin America and Dewert Okin, in that Defendants conduct business, including selling products for distribution, throughout the United States including within this judicial district. On information and belief, Defendants, directly or through intermediaries (including affiliates, distributors, retailers, and others), ship, distribute, offer for sale, sell, market, promote and advertise their products, including the Okin Betadrive, in the United States and within this judicial district. Furthermore, on information and belief, Defendants' products, including the Okin Betadrive, regularly enter the stream of commerce in the United States and this judicial district. As a result, Defendants purposefully avail themselves of the privilege of doing business in this judicial district and the State of Maryland. Moreover, by doing business in this judicial district and the State of Maryland, Defendants avail themselves of the protections of this judicial district and the State of Maryland, and in turn, consent to jurisdiction in this judicial district and the State of Maryland.

10. Venue is proper in this district, *inter alia*, pursuant to 28 U.S.C. §§ 1391 and 1400.

STATEMENT OF FACTS

11. On April 3, 2013, Defendants filed a Complaint with the U.S. International Trade Commission (“ITC”) under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337, alleging that the Plaintiffs’ manufacture, sale for importation, importation, marketing, and sale after importation in the United States of the KDPT005 Actuator infringes U.S. Patent No. 5,927,144 (the “’144 Patent”), entitled “Drive for Adjusting Parts of Seating and Reclining Furniture”, identifying Dietmar Koch as the named inventor. According to the ITC Complaint, Dewert Okin claims to be the current owner of the ’144 Patent. Defendants also allege that the Okin Betadrive practices one or more claims of the ’144 Patent.

FIRST CAUSE OF ACTION

**DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF
U.S. PATENT NO. 5,927,144**

12. Plaintiffs hereby repeat, re-allege and incorporate by reference each and every allegation contained in Paragraphs 1 through 11 above as though fully stated herein.

13. There is an actual controversy between Kaidi Electrical and Kaidi LLC on the one hand, and Defendants Okin America and Dewert Okin on the other, as to whether Plaintiffs infringe any valid and enforceable claim of the ’144 Patent.

14. Plaintiffs have not infringed and do not infringe any valid and enforceable claim of the ’144 Patent.

15. Accordingly, Kaidi Electrical and Kaidi LLC seek a judgment declaring that they do not infringe and have not infringed, directly or indirectly, contributorily or by inducement, any claim of the ’144 Patent.

SECOND CAUSE OF ACTION

DECLARATORY JUDGMENT OF INVALIDITY OF U.S. PATENT NO. 5,927,144

16. Plaintiffs hereby repeat, re-allege and incorporate by reference each and every allegation contained in Paragraphs 1 through 15 above as though fully stated herein.

17. There is an actual controversy between Kaidi Electrical and Kaidi LLC on the one hand, and Defendants Okin America and Dewert Okin, on the other, as to the invalidity of the '144 Patent.

18. The claims of the '144 Patent, including the claims alleged to be infringed by Plaintiffs, are invalid for failure to comply with one or more of the requirements of patentability set forth in Title 35 of the United States Code or the rules, regulations and laws related thereto, including without limitation, the requirements of 35 U.S.C. §§ 101, 102, 103 and/or 112.

19. Accordingly, Kaidi Electrical and Kaidi LLC seek a judgment declaring that the claims of the '144 Patent are invalid, unenforceable, void and of no legal consequence.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a judgment in their favor, including:

- A. A declaration that Kaidi Electrical and Kaidi LLC have not infringed, and are not infringing, any valid and enforceable claim of the '144 Patent;
- B. A declaration that each of the claims of the '144 Patent is invalid;
- C. A declaration that the '144 Patent is unenforceable, void and of no legal consequence;
- D. An injunction prohibiting Defendants and their officers, agents, employees and attorneys, and all persons in active concert or participation with them, from alleging infringement of the '144 Patent by Kaidi Electrical and Kaidi LLC and their customers and distributors;

- E. A declaration that this case is an exceptional case pursuant to 35 U.S.C. § 285;
- F. An award of Plaintiffs' reasonable attorneys' fees, costs and expenses; and
- G. Such other and further relief as the Court deems just and proper.

Dated: June 19, 2013

Respectfully submitted,

/s/ Gary M. Hnath

Gary M. Hnath

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ATTORNEYS FOR PLAINTIFFS
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LTD. AND KAIDI LLC.